

## **REMARKS**

### **I. Status of Claims**

Claims 129 and 140-144 are pending in the application. Claim 129 and 140 are independent. By this amendment, claims 129, 140, and 142 are currently amended. Claim 144 is newly added. The Applicant respectfully submits that no new matter is added.

Claims 129 and 140-143 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Rosenblatt ("6,711,548") ("Rosenblatt").

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks

### **II. Applicant's Statement of Substance of Examiner Interview**

In compliance with M.P.E.P. 713.04, the Applicant, upon information and belief, provides this Statement of Substance of Interview concerning the telephonic interviews conducted December 5, 2007 and January 28, 2008 between Examiner Robert W. Morgan and Aaron S. Kamlay.

- (A) Exhibits. N/A.
- (B) Claims. 129 and 140-143.
- (C) Prior art. Rosenblatt.
- (D) Amendments. Discussed possible changes to the claim language to better convey Applicant's invention. For example, discussed posting pre-scheduled flights to the system by the owner of private aircraft to fill empty leg, as well as, language distinguishing the present invention from the steps of subscribing/unsubscribing to a directory service as described in Rosenblatt.
- (E) Principal arguments of Applicant. Claims distinguish present invention from Rosenblatt.
- (F) Other matters. N/A.
- (G) Results. Agreement was not reached. The Examiner indicated that any amendment changing the scope of the invention and requiring further search and consideration, will not be entered After Final.

### III. Pending Claims

Independent claims 129 and 140, the only independent claims, stand rejected under 35 USC 103(a) as allegedly being unpatentable over Rosenblatt.

The Applicant respectfully submits that claim 129 is patentable over the cited reference at least because it recites, “receiving pre-scheduled flight data from owners of the private aircraft, the pre-scheduled flight data defining empty leg flights scheduled by the owners outside the reservation service;” “receiving from the owners availability information including predetermined reservation criteria for each empty leg, said reservation criteria including a departure location, a departure time constraint, a minimum number of passengers, and a minimum total payment required to reserve the private aircraft, the departure location being defined by the pre-scheduled flight data;” and “posting the availability information to the reservation service...” (emphasis added)

The Applicant respectfully submits that claim 140 is patentable over the cited reference at least because it recites, “a reservation service operated by a reservation service owner for use with a plurality of airplanes, each owned and operated by a private airplane owner, each airplane owner independent of another such airplane owner and independent of said reservation service owner;” and “said reservation service to receive electronically from each airplane owner availability of at least one flight pre-scheduled by the airplane owner, each of said flight availabilities including a departure location, a list of possible destination locations, a departure time constraint, and a minimum total payment, said minimum total payment expressed as a function of available seats and price per seat.” (emphasis added)

Certain embodiments of the present application relate to receiving pre-scheduled flight data from owners of a private aircraft. Other embodiments of the present invention relate to a service for receiving from each airplane owner flight availability of a pre-scheduled flight. Thus, according to the claimed features, pre-scheduled flights may be made available to travelers using a reservation service. For example, an empty leg flight of an origin-destination pair often will occur regardless of whether any passengers are scheduled for the flight, but the private aircraft owner may wish to book passengers for the empty leg to improve efficiency, increase profit, or

other reasons. To do so, the owner may make the pre-scheduled empty leg flight available to independent passengers wishing to travel on the empty leg route. See page 1, line 27 through page 2, line 27 of the Applicant's specification.

In contrast, Rosenblatt describes a system in which flights are scheduled based on traveler requests. There is no suggestion that flights should be pre-scheduled by aircraft owners, or that aircraft owners should provide pre-scheduled flight data to a reservation service. In fact, the Applicant respectfully submits that Rosenblatt teaches away from using pre-scheduled flights, since Rosenblatt's flights are scheduled based on traveler needs. See, e.g., col. 6, lines 13-22, of Rosenblatt. Using pre-scheduled flights would prevent travelers from specifying an arbitrary departure site, departure date, and destination, since only those departures and destinations associated with pre-scheduled flights would be available.

Further, the Office Action recognizes that Rosenblatt fails to explicitly teach several of the claim limitations of Applicant's claims 129 and 140 (See pages 4 and 8 of the Office Action). In attempt to address these deficiencies, the Office Action appears to rely on Official Notice to support the rejections. More specifically, with respect to claim 129, the Office Action alleges that it would have been obvious to modify Rosenblatt since "one of ordinary skill in the art at the time the invention was made would have found it obvious to include transmitting a passenger list to private aircraft owners within the travel scheduling system as taught by Rosenblatt with the motivation of providing aircraft owners with accurate and updated passenger information thereby utilizing all the seats that are available in order to satisfy the cost of the flight." Further, with respect to claim 140, the Office Action alleges that it would have been obvious to modify Rosenblatt since "one of ordinary skill in the art at the time the invention was made would have found it obvious to include transmitting a passenger list and flight schedule in order to fly a flight substantially according to flight schedule within the travel scheduling system as taught by Rosenblatt with the motivation of providing aircraft owners with accurate and updated flight schedule information in order to satisfy the cost of the flight." The Applicant respectfully traverses the Official Notice taken and requests evidence to substantiate the alleged motivations or reasons to modify Rosenblatt as alleged. Such support is required under MPEP 2144.02 and 2144.03.

The Applicant respectfully submits that lacking any teaching and/or identifying reason why one of ordinary skill in the art would modify Rosenblatt in the manner as claimed by the

Applicant, Rosenblatt, nor any of the other references cited, anticipate and/or render obvious the Applicant's invention. The Applicant respectfully submits that, as discussed in *KSR Int'l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant.

Therefore, the Applicant's independent claims are neither anticipated nor rendered obvious by Rosenblatt or any of the other cited references.

Accordingly, for at least these reasons, the Applicant respectfully submit that claims 129 and 140, as well as any of their dependent claims, are patentable over the cited references.

#### **IV. Conclusion**

The Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is respectfully requested.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application.

Applicants do not believe that any additional fees are required in connection with this submission. Nonetheless, Applicants authorize payment of any additional fees under 37 CFR §§ 1.16 or 1.17 or credit any overpayment to Deposit Account No. 11-0600.

Respectfully submitted,

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